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14 Attorneys for Plaintiff,  
15 Jeff Nyberg

16 IN THE UNITED STATES DISTRICT COURT  
17 FOR THE DISTRICT OF ARIZONA

18 Jeff Nyberg,

19 Plaintiff,

20 vs.

21 ATG Credit, LLC; and DOES 1-10,  
22 inclusive,

23 Defendants.  
24  
25  
26  
27  
28

Case No.:

**COMPLAINT**

**JURY TRIAL DEMANDED**

1 For this Complaint, the Plaintiff, Jeff Nyberg, by undersigned counsel, states as  
2 follows:  
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the Fair Debt  
6 Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of  
7 Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to  
8 collect a consumer debt.  
9

10 2. Original and supplemental jurisdiction exists pursuant to 28 U.S.C. §§ 1331,  
11 1367.  
12

13 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that  
14 Defendants transact business here and a substantial portion of the acts giving rise to  
15 this action occurred here.  
16

17 **PARTIES**

18 4. The Plaintiff, Jeff Nyberg (hereafter "Plaintiff"), is an adult individual residing  
19 in Lake Havasu City, Arizona, and is a "consumer" as the term is defined by 15  
20 U.S.C. § 1692a(3).  
21

22 5. The Defendant, ATG Credit, LLC (hereafter "ATG"), is a company with an  
23 address of 1700 West Cortland Street, Suite 201, Chicago, Illinois 60622, operating as  
24 a collection agency, and is a "debt collector" as the term is defined by 15 U.S.C.  
25 § 1692a(6).  
26  
27  
28

1 6. Does 1-10 (the “Collectors”) are individual collectors employed by ATG and  
2 whose identities are currently unknown to the Plaintiff. One or more of the Collectors  
3 may be joined as parties once their identities are disclosed through discovery.  
4

5 7. ATG at all times acted by and through one or more of the Collectors.  
6

7 **ALLEGATIONS APPLICABLE TO ALL COUNTS**

8 **A. The Debt**

9 8. A person other than the Plaintiff (the “Debtor”) allegedly incurred a financial  
10 obligation (the “Debt”) to an original creditor (the “Creditor”).  
11

12 9. Plaintiff is not the Debtor, Plaintiff does not know the Debtor, and Plaintiff has  
13 no responsibility whatsoever for repayment of the Debt.  
14

15 10. The Debt arose from services provided by the Creditor which were primarily  
16 for family, personal or household purposes and which meets the definition of a “debt”  
17 under 15 U.S.C. § 1692a(5).  
18

19 11. The Debt was purchased, assigned or transferred to ATG for collection, or ATG  
20 was employed by the Creditor to collect the Debt.  
21

22 12. The Defendants attempted to collect the Debt and, as such, engaged in  
23 “communications” as defined in 15 U.S.C. § 1692a(2).  
24

25 **B. ATG Engages in Harassment and Abusive Tactics**

26 13. In or around December 2012, ATG began calling Plaintiff in an attempt to  
27 collect the Debt from a person named “Sylvia” (the “Debtor”).  
28

1 14. ATG employed automated dialers with prerecorded messages to place calls to  
2 Plaintiff in an attempt to collect the Debt.

3  
4 15. ATG called Plaintiff's residential telephone number on a daily basis and left  
5 numerous messages requesting a call back from the Debtor.

6  
7 16. Plaintiff does not know the Debtor or her whereabouts and is in no way  
8 associated with the Debt.

9  
10 17. On several occasions, Plaintiff called ATG, informing it that ATG was calling  
11 his residential telephone; that he was not the Debtor; that he did not know the Debtor;  
12 and that the Debtor could not be reached at his number.

13  
14 18. During each conversation, Plaintiff directed ATG to cease all communications  
15 with him.

16  
17 19. Despite Plaintiff's unequivocal requests to cease communications, ATG  
18 continued placing calls to Plaintiff in an attempt to collect the Debt.

19  
20 **C. Plaintiff Suffered Actual Damages**

21 20. The Plaintiff has suffered and continues to suffer actual damages as a result of  
22 the Defendants' unlawful conduct.

23  
24 21. As a direct consequence of the Defendants' acts, practices and conduct, the  
25 Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional  
26 distress, fear, frustration and embarrassment.

1 22. The Defendants' conduct was so outrageous in character, and so extreme in  
2 degree, as to go beyond all possible bounds of decency, and to be regarded as  
3 atrocious, and utterly intolerable in a civilized community.  
4

5  
6 **COUNT I**  
7 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

8 **15 U.S.C. § 1692, et seq.**

9 23. The Plaintiff incorporates by reference all of the above paragraphs of this  
10 Complaint as though fully stated herein.  
11

12 24. The Defendants engaged in behavior the natural consequence of which was to  
13 harass, oppress, or abuse the Plaintiff in connection with the collection of a debt, in  
14 violation of 15 U.S.C. § 1692d.  
15

16 25. The Defendants caused a phone to ring repeatedly and engaged the Plaintiff in  
17 telephone conversations, with the intent to annoy and harass, in violation of 15 U.S.C.  
18 § 1692d(5).  
19

20 26. The Defendants used unfair and unconscionable means to collect a debt, in  
21 violation of 15 U.S.C. § 1692f.  
22

23 27. The foregoing acts and omissions of the Defendants constitute numerous and  
24 multiple violations of the FDCPA, including every one of the above-cited provisions.  
25

26 28. The Plaintiff is entitled to damages as a result of the Defendants' violations.  
27  
28

**COUNT II**

**INVASION OF PRIVACY BY INTRUSION UPON SECLUSION**

29. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

30. The Restatement of Torts, Second, § 652(b) defines intrusion upon seclusion as, “One who intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person.”

31. Arizona further recognizes the Plaintiff’s right to be free from invasions of privacy, thus Defendant violated Arizona state law.

32. The Defendant intentionally intruded upon Plaintiff’s right to privacy by continually harassing the Plaintiff with the above referenced telephone calls.

33. The telephone calls made by Defendants to the Plaintiff were so persistent and repeated with such frequency as to be considered, “hounding the plaintiff,” and, “a substantial burden to her existence,” thus satisfying the Restatement of Torts, Second, § 652(b) requirement for an invasion of privacy.

34. The conduct of the Defendants in engaging in the illegal collection activities resulted in multiple invasions of privacy in such a way as would be considered highly offensive to a reasonable person.

35. As a result of the intrusions and invasions, the Plaintiff is entitled to actual damages in an amount to be determined at trial from Defendants.

36. All acts of Defendants and its agents were committed with malice, intent, wantonness, and recklessness, and as such, Defendants are subject to punitive damages.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants as follows:

A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the Defendants;

B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against the Defendants;

C. Costs of litigation and reasonable attorneys' fees pursuant to 15 U.S.C. § 1692k(a)(3) against the Defendants;

D. Actual damages from the Defendants for the all damages, including emotional distress suffered as a result of the intentional, reckless, and/or negligent FDCPA violations and intentional, reckless, and/or negligent invasions of privacy in an amount to be determined at trial;

E. Punitive damages; and

F. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

1 DATED: April 25, 2013

LEMBERG & ASSOCIATES, LLC

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4 By: /s/ Trinette G. Kent  
5 Trinette G. Kent

6 Attorney for Plaintiff,  
7 Jeff Nyberg  
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